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March 18, 2022

Via ECF Filing

The Honorable Leda Wettre
United States Magistrate Judge

Re: ***Lamb v. BrahamPutra, LLC*, Case No. 2:20-cv-12145, In the United States
District Court for the District of New Jersey**

Dear Judge Wettre:

Plaintiff Derek Lamb respectfully requests permission from the Court to file a motion for equitable tolling of the statute of limitations period for the opt-in and potential opt-in members in this putative collective action.

Plaintiff brings a Fair Labor Standards Act (“FLSA”) claim against Defendant BrahamPutra, LLC (“Defendant”) for misclassifying him as an independent contractor, and thereby failing to pay him overtime wages. *See* Dkt. 13 at ¶¶ 13-62. Plaintiff also seeks a collective action pursuant to the FLSA § 216(b), and seeks to send notice to the similarly situated putative collective members to allow them to learn about this lawsuit, learn about their rights, and “opt in” if they so choose. *Id.* at ¶¶ 63-82.

Plaintiff initiated this lawsuit on September 8, 2020. *See* Dkt. 1. Following multiple motions to dismiss that delayed Defendant’s Answer to this lawsuit by more than a year (*see* Dkt. Nos. 10 (Defendant’s first motion to dismiss), 14 (Defendant’s second motion to dismiss), 22 (Judge Arleo’s Order denying the motion to dismiss), 24 (Defendant’s Answer, filed on September 8, 2021)), the parties engaged in some preliminary discovery that resulted in a discovery dispute over, among other things, the issue of whether Defendant should disclose the names and contact information of the putative collective members. *See generally* Dkt. Nos. 32 and 33. On January 21, 2022, the parties informed the Court that they had resolved the issue over the class list, but that Defendant could not provide a date certain for producing that information. *See* Dkt. 36. In that letter, Plaintiff also requested leave to file a motion for conditional certification to send Court-authorized notice to the putative collective members. *Id.* The Court gave Defendant a deadline of February 25, 2022 to provide the class list as agreed upon, and granted Plaintiff’s request to file a motion for conditional certification by no later than March 25, 2022. *See* Dkt. 38.

Defendant’s partial disclosure of the class list caused undue delay. In fact, Defendant did not produce the class list until after or near the three-year limitations period for the FLSA claims of each of the putative collective members, greatly prejudiced the members of the putative class. That is, nearly all of the putative collective members last worked for Defendant in January, February, or March of 2019. Upon learning this information, Plaintiff sought to initiate a conference with Defendant over the issue of tolling to account for the delays caused by the multiple motions to dismiss and Defendant’s slow-rolling of producing the class list. Defendant disagreed that tolling was appropriate, and the parties reached an impasse.



Despite these good faith attempts to confer, Plaintiff is left with no other option but to ask permission to file a motion for equitable tolling of the FLSA limitations periods for the opt-in members and putative collective members.

Dated: March 18, 2022

Respectfully submitted,

/s/ Andrew Glenn

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CC: All Counsel of Record via ECF Filing.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on March 18, 2022, I electronically filed the foregoing document with the Clerk of Court using the Court's CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants.

/s/ Andrew Glenn

Andrew Glenn, Esq.